

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

## **ORDER**

In this case brought by *pro se* Plaintiff, Sherrie L. Durham, the Magistrate Judge has entered a Report and Recommendation (“R & R”) (Docket Entry No. 164), recommending that Plaintiff’s *Motion to Reopen Case and Enforce Findings of Declaratory Judgment and/or Reduce Findings to an Order or to Vacate Order* (Docket Entry No. 145) be denied.<sup>1</sup>

The R & R provides, in part,

Six and one-half years ago, on March 14, 2007, plaintiff Sherrie L. Durham's prose complaint in this case was dismissed and final judgment was entered against her. (Docket Entry No. 107). The judgment of dismissal was affirmed by the Sixth Circuit Court of Appeals on May 19, 2008. (Docket Entry No. 143).

\* \* \*

Here, plaintiff cannot in any sense be deemed to have “prevailed” or “succeeded” in her efforts to obtain declaratory relief, so as to warrant further proceedings flowing from the final judgment in this case. Rather, years ago, plaintiff’s complaint seeking declaratory judgment was dismissed for failure to state a claim upon which relief could be granted, and that judgment of dismissal was affirmed on appeal to the Sixth Circuit. Plaintiff has not demonstrated any viable grounds for resurrecting the matter at this late date.

<sup>1</sup> Defendants filed a response in opposition on February 22, 2013 (Docket Entry No. 147), to which Plaintiff filed a reply (Docket Entry No. 148).

(Docket Entry No. 164). Therefore, the Magistrate Judge recommended that the motion “be DENIED, and that all subsequently filed motions in this matter be DENIED as moot.” (*Id.* at 3). Plaintiff filed a timely objection to the R & R on October 2, 2013. (Docket Entry No. 167).

Having thoroughly reviewed the record in this case and the applicable law in accordance with Rule 72(b), the Court will accept the R & R for the above-mentioned reason of the Magistrate Judge.

Accordingly, the Court hereby rules as follows:

(1) The Report and Recommendation (Docket Entry No. 164) is hereby ACCEPTED and APPROVED, and Plaintiff’s objections thereto (Docket Entry No. 167) are hereby OVERRULED;

(2) Plaintiff’s *Motion to Reopen Case and Enforce Findings of Declaratory Judgment and/or Reduce Findings to an Order or to Vacate Order* (Docket Entry No. 145) is hereby DENIED; and

(3) All other pending motions (Docket Entry Nos. 149, 150, 152, 154, 157 and 159) are hereby DENIED as moot.

**It is SO ORDERED.**

  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE